

§ 90-14.2. Hearing before disciplinary action.

(a) Before the Board shall take disciplinary action against any license granted by it, the licensee shall be given a written notice indicating the charges made against the licensee, which notice may be prepared by a committee or one or more members of the Board designated by the Board, and stating that the licensee will be given an opportunity to be heard concerning the charges at a time and place stated in the notice, or at a time and place to be thereafter designated by the Board, and the Board shall hold a public hearing not less than 30 days from the date of the service of notice upon the licensee, at which the licensee may appear personally and through counsel, may cross examine witnesses and present evidence in the licensee's own behalf. A licensee who is mentally incompetent shall be represented at such hearing and shall be served with notice as herein provided by and through a guardian ad litem appointed by the clerk of the court of the county in which the licensee resides. The licensee may file written answers to the charges within 30 days after the service of the notice, which answer shall become a part of the record but shall not constitute evidence in the case.

(b) Once charges have been issued, neither counsel for the Board nor counsel for the respondent shall communicate ex parte, directly or indirectly, pertaining to a matter that is an issue of fact or a question of law with a hearing officer or Board member who is permitted to participate in a final decision in a disciplinary proceeding. In conducting hearings, the Board shall retain independent counsel to provide advice to the Board or any hearing committee constituted under G.S. 90-14.5(a) concerning contested matters of procedure and evidence.

(c) Once charges have been issued, the parties may engage in discovery as provided in G.S. 1A-1, the North Carolina Rules of Civil Procedure. Additionally, pursuant to any written request by the respondent or respondent's counsel, the Board shall provide information obtained during an investigation, except for the following:

- (1) Information that is subject to attorney-client privilege or is attorney work product.
- (2) Information that would identify an anonymous complainant.
- (3) Information generated during an investigation that will not be offered into evidence by the Board and is related to:
 - a. Advice, opinions, or recommendations of the Board staff, consultants, or agents.
 - b. Deliberations by the Board and its committees during an investigation. (1953, c. 1248, s. 3; 1975, c. 690, s. 5; 2007-346, s. 15; 2009-558, s. 2; 2016-117, s. 2(k).)